

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TWYLSA COGSWELL

Plaintiff,

v.

LESSEREVIL LLC,

Defendant.

Case No. 1:23-cv-0311-DJC-JDP

ORDER

This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. (ECF No. 12.) On March 7, 2025, the magistrate judge filed findings and recommendations herein which were served on the parties and which contained notice that any objections to the findings and recommendations were to be filed within fourteen days. Defendant filed objections on March 21, 2025, and they were considered by the undersigned.

The Court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The Magistrate Judge's conclusions of law are reviewed de novo. *See Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) ("[D]eterminations of law by the magistrate judge are reviewed *de novo* by both the district court and [the appellate] court . . ."). Having reviewed the file, the Court finds the findings and recommendations to be supported by the record and by the proper

analysis.

Accordingly, IT IS HEREBY ORDERED that:

1. The proposed Findings and Recommendations filed March 7, 2025, are adopted;

2. Defendant's motion to dismiss the original complaint, ECF No. 11, is DENIED as moot;

3. Defendant's motion to dismiss plaintiff's first amended complaint, ECF No. 16, is GRANTED in part and DENIED as follows:

a.) the motion is granted without leave to amend as to plaintiff's claims challenging defendant's labeling based on the theory that the product label includes prohibited implicit nutrient content claims in violation of 21 U.S.C. § 343(r).

b.) plaintiff's CLRA claim, which seeks only injunctive relief, is dismissed with leave to amend for lack of standing.

c.) the balance of defendant's motion is denied.

IT IS SO ORDERED.

Dated: **March 26, 2025**


Hon. Daniel J. Calabretta
UNITED STATES DISTRICT JUDGE